



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – NOVEMBER 15, 2005

Date of Issue: December 21, 2005

SUMMARY MINUTES¹

NOVEMBER 15, 2005

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Members Present:

William Elkins, President
Maeley Tom, Vice President
Sean Harrigan, Member
Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

A. On November 10, 2005, the SPB held a gathering at the State Capitol to celebrate the passage of AB 124. Board President Elkins and Vice President Tom participated in the activities. Assembly member Dymally, who carried the legislation, also attended and was thanked for his efforts. A large group of supporters crowded the room.

B. CPS, at its Board's request, is now issuing periodic financial reports on Sigma in order to track the progress of its purchase.

C. On December 2, 2005, the SPB is sponsoring a Workforce Planning Workshop which will feature, among others, Nancy Kiyonaga, from the State of New York.

D. The December 6-7, 2005, meeting may be a one-day meeting because several cases on appeal have been settled.

E. On December 9, 2005, a delegation of personnel officials from Shanghai will be visiting the SPB office in the afternoon. No other details have been provided.

F. On December 20, 2005, the Executive Officer has been invited to speak at a UCD program to a visiting group of HR officials from Taiwan on the subject of "HR Metrics."

¹ The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

Litigation

- McCollum v. State of California: Plaintiff has retained the law firm of Jones, Day to represent him. Negotiations are pending to stipulate to amend the complaint again. A hearing on the State's motion for summary judgment is scheduled for December 2, 2005.
- Victor Fink v. CHP: The court of appeal has issued a decision upholding the SPB's decision ordering appellant reinstated after PERS determined that appellant was no longer disabled.
- Carpenters Local 46 v. State: Discovery has been put on hold.
- Ortega v. SPB: A \$125,000 judgment for attorney fees has been entered against Ortega on behalf of the state. An abstract of judgment has been recorded.

Other Matters

- The California Labor and Employment Review will publish an article by SPB attorneys on the Post and Bid case.
- The Chief Counsel attended the Council of Counsels meeting on 11/14/05.
- The ALJ I examination is now complete.
- The Chief Counsel received a request from the Attorney General's office for input on the legality of an exempt PUC executive officer.
- SPB has been asked to review the draft Plata report issued on health care in the prison system.
- SPB has received and responded to a public records act request from the Capitol Weekly regarding fundraising by SPB employees for the Children's Holiday Project.

4. NEW BUSINESS

NONE

5. REPORT ON LEGISLATION – Sherry Hicks

NONE

CLOSED SESSION OF THE STATE PERSONNEL BOARD

6. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

7. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,
United States District Court, Northern District of California.

8. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

9. **RECOMMENDATIONS TO THE GOVERNOR**
Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

10. **DISCUSSION OF COMING BOARD MEETING SCHEDULE OF
DECEMBER 6-7, 2005, IN SAN FRANCISCO, CALIFORNIA**

The meeting will be a changed to one day only to be held on December 6, 2005.

BOARD ACTIONS:

11. **ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
OCTOBER 18, 2005**

ACTION: ADOPTED

VOTE: Elkins, Tom, Harrigan, Sheehan – Aye

12. **EVIDENTIARY CASES - (See Case Listings on Page 9-13)**

13. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION - (See Minutes Page 23-24)**

ACTION: ADOPTED

VOTE: Elkins, Tom, Harrigan, Sheehan – Aye

14. **NON-EVIDENTIARY CASES - (See Case Listings on Page 14-20)**

15. **NON-HEARING CALENDAR**

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It was anticipated that the Board would act on these proposals without a hearing.

On November 15, 2005, the Board adopted as indicated below the following recommendations presented by Karen Coffee, Chief of METR Division, California State Personnel Board.

ACTION: ADOPTED

VOTE: Elkins, Tom, Harrigan, Sheehan – Aye

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

NONE

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

CLASSIFICATION	CLASS CODE	EE' ORG. NOTICED DATE	DEPT. NOTICED DATE	CBID	SPEC. REV
ALCOHOL PROGRAM ADMINISTRATOR	8364	9/15/2005	10/6/2005	M01	
CHIEF, GOVERNMENTAL AFFAIRS OFFICE, STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION	4732	9/15/2005	10/6/2005	M01	
MANAGER III STATE COMPENSATION INSURANCE FUND	9306	9/15/2005	10/6/2005	M01	Yes
MANAGER IV, STATE COMPENSATION INSURANCE FUND	9312	9/15/2005	10/6/2005	M01	Yes
ASSISTANT DIVISION CHIEF/REGIONAL EXECUTIVE OFFICER, WATER RESOURCES CONTROL BOARD	3262	9/15/2005	10/6/2005	M09	
CHIEF, COMPLIANCE DIVISION, AIR RESOURCES BOARD	4168	9/15/2005	10/6/2005	M09	
PRINCIPAL ARCHITECT, HEALTH FACILITIES	4118	9/15/2005	10/6/2005	M09	
ADMINISTRATIVE SERVICE OFFICER II	4580	9/15/2005	10/6/2005	S01	
AREA OFFICE ADMINISTRATOR PROPERTY TAX DIVISION	5007	9/15/2005	10/6/2005	S01	
PAYROLL SERVICES SUPERVISOR I	1310	9/15/2005	10/6/2005	S01	
PROGRAM SUPERVISOR FRUIT AND VEGETABLE QUALITY CONTROL	0045	9/15/2005	10/6/2005	S01	
CHIEF PUBLIC HEALTH VETERINARIAN	0260	9/15/2005	10/6/2005	S10	
SUPERVISING STENOGRAPHER I	1250	9/15/2005	10/6/2005	S04	Yes
SENIOR MOTOR VEHICLE POLLUTION CONTROL ENGINEER	3808	9/15/2005	10/6/2005	S09	
CHIEF, MICROBIAL DISEASES LABORATORY BRANCH	7757	9/15/2005	10/6/2005	S10	

NOTE: All classes have been previously designated Footnote 24 and have been vacant for at least twenty-four months.

Footnote 24 specifies that a classification will be abolished when it becomes vacant.

16. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

17. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section served to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DEPUTY COMMISSIONER, CREDIT UNION DIVISION

The Department of Financial Institutions proposes to allocate the above position to the CEA category. The Deputy Commissioner is responsible for the policy development and implementation, management and operations of the Department of Financial Institutions' Credit Union Division.

DEPUTY DIRECTOR, OFFICE OF PROBLEM GAMBLING

The Department of Alcohol and Drug Programs proposes to allocate the above position to the CEA category. The Deputy Director is responsible for the effective management, planning, direction, oversight, and policy development of statewide strategies to address the dynamically evolving needs of problem gambling, including intervention, prevention, and treatment services.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

CHIEF, MENTAL HEALTH EDUCATION AND TRAINING BRANCH

The Department of Mental Health's proposal to establish the above position to the CEA category has been approved effective September 29, 2005 for a period of twenty-four months.

CHIEF COUNSEL, OFFICE OF LEGAL AFFAIRS

The Department of Developmental Services proposal to establish the above position to the CEA category has been approved effective October 24, 2005.

ACTION: NOTED

18. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

NONE

19. WRITTEN STAFF REPORT FOR BOARD INFORMATION

**ANNUAL CENSUS OF EMPLOYEES IN THE STATE CIVIL SERVICE,
2004-2005 FISCAL YEAR**

Government Code sections 19237, 19405, 19705, 19792.5(b) and 19793 require the State Personnel Board to provide the Governor and Legislature with an Annual Report regarding the state civil service workforce. This report covers the 2004-05 fiscal year. SPB staff is requesting the Board to approve this report for submission to the Governor and the Legislature.

ACTION: APPROVED

20. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

21. BOARD ACTIONS ON SUBMITTED ITEMS - (See Minutes - Page 21-22)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on these Minutes under Evidentiary Cases.

A D J O U R N M E N T

12. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

(1) **PATRICK BRASS, CASE NO. 04-1952A**

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision rejected July 26, 2005

Transcript prepared

Oral argument heard November 1, 2005, San Diego

Case ready for decision by FULL Board

NO ACTION

(2) **GARY GARFINKEL, CASE NO. 98-3128RBA**

Appeal for determination of back salary, benefits and interest

Classification: Deputy Attorney General IV

Department: Department of Justice

Proposed decision rejected July 13, 2005

Transcript prepared

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Oral argument heard November 1, 2005, San Diego

Case ready for decision by FULL Board

NO ACTION

(3) **MARK SAMORA, CASE NO. 04-3041A**

Appeal from dismissal

Classification: Information Technology Consultant

Department: California State University, Los Angeles

Proposed decision rejected July 13, 2005

Transcript prepared

Oral argument heard October 3, 2005, Sacramento

Case ready for decision by FULL Board

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

These cases would have been on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

These cases would have been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

On November 15, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan – Aye

(1) DAVID PHIPPS, CASE NO. 05-1387

Appeal from dismissal

Classification: Heavy Truck Driver

Department: Department of General Services

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

- (2) **MICHAEL ROBERSON, CASE NO. 05-0081**
Appeal from dismissal
Classification: Youth Correctional Officer (Permanent Intermittent)
Department: Department of the Youth Authority
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (3) **FRANCES SILVA, CASE NO. 05-1884**
Appeal from five percent reduction in salary for six months
Classification: Manager III
Department: Department of Motor Vehicles
ACTION: The Board adopted the ALJ's Proposed Decision modifying the five percent reduction in salary for six months to a five percent reduction in salary for two months.
- (4) **GREGORY D. VONBEULWITZ, CASE NO. 05-2179**
Appeal from 45 workdays suspension and transfer
Classification: Digital Print Operator II
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the 45 workdays suspension and transfer.

Proposed Decisions Taken Under Submission At Prior Meeting

These would have been ALJ Proposed Decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

- (1) **PRECILLA CALAUNAN, CASE NO. 05-1737R**
Appeal from dismissal
Classification: Psychiatric Technician Assistant
Department: Department of Developmental Services
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

**(2) RUDY CHAVEZ & FELIPE RODRIGUEZ
CASE NOS. 05-1649R & 05-1873R**

Appeal from terminations of Limited Term Appointments

Classification: Pre-Licensed Psychiatric Technician &
Psychiatric Technician Assistant

Department: Department of Developmental Services

ACTION: The Board adopted the ALJ's Proposed Decision
granting the request for name clearing and the terminations to be
recorded in their employment records as being without fault.

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On November 15, 2005, the Board took the following actions the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan – Aye

(1) TIMOTHY DURNIN, CASE NO. 05-0896P

Complaint of whistleblower retaliation

Classification: Director of Outreach and Retention

Department: Allan Hancock College, Santa Maria

ACTION: Petition for Rehearing filed by appellant denied.

(2) LAURENDA GEORGE , CASE NO. 05-0831P

Complaint of whistleblower retaliation

Classification: Associate Personnel Analyst

Department: Office of the State Controller

ACTION: Petition for Rehearing filed by appellant denied.

WHISTLEBLOWER NOTICE OF FINDINGS

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) LINDA DEOS, CASE NO. 05-0434A

Appeal from dismissal

Classification: Staff Counsel III (Specialist)

Department: Employment Development Department

Proposed decision rejected August 30, 2005

Transcript prepared

ACTION: Oral argument cancelled, pending settlement.

The Board will not vote.

(2) EDUARDO PEREZ, CASE NO. 05-0763A

Appeal from five percent reduction in salary for six months

Classification: Parole Agent I (Adult Parole)

Department: Department of Corrections

Proposed decision rejected November 1, 2005

Pending transcript

NO ACTION

(3) KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E

Appeal from denial of reasonable accommodation
and from constructive medical termination

Classification: Office Technician (General)

Department: Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Pending oral argument December 6-7, 2005, San Francisco

ACTION: Oral argument cancelled, appeals withdrawn. The Board will not vote.

14. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On November 15, 2005, the Board adopted as indicated below the following decisions presented by Karen Coffee, Chief of METR Division, California State Personnel Board, in absence of Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan – Aye

(1) PHILLIP ACOSTA, CASE NO. 04-2565

Classification: Correctional Officer

Department: California Department of Corrections

Issue: Suitability; furnished inaccurate and omitted pertinent information.

ACTION: DENIED

(2) CHRISTIANE ALIDON, CASE NO. 05-1461

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; negative employment record and omitting pertinent information.

ACTION: DENIED

(3) SHANA BARON, CASE NO. 04-2583

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; based on past employment.

ACTION: The Board modified staff's recommendation, granting the appeal.

- (4) **KEVIN BROWN, CASE NO. 05-1420**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information and illegal drug activity.
ACTION: GRANTED
- (5) **CARMEN ESPARZA, CASE NO. 05-0424**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; because of her past relationship with an inmate
ACTION: GRANTED
- (6) **DANIEL FORWARD, CASE NO. 04-2595**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant furnished inaccurate information or omitted pertinent information during the selection process.
ACTION: DENIED
- (7) **DAVID GARABEDIAN, CASE NO. 05-0590**
Classification: Correctional Officer
Department: Corrections
Issue: Omitted pertinent information.
ACTION: DENIED
- (8) **CHARLES HAMPTON, CASE NO. 05-0844**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; negative employment record and omitting pertinent information.
ACTION: DENIED
- (9) **LISHA LATRELL HARDY, CASE NO. 04-2720**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; her marriage to a parolee would be a conflict of interest.
ACTION: Case withdrawn by SPB staff. The Board did not vote.
- (10) **LOUIS HURD III, CASE NO. 04-0334**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; felony conviction.
ACTION: Case withdrawn by Department. The Board did not vote.

- (11) **LISA LOPEZ, CASE NO. 04-2856**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; negative driving record and omitting pertinent information.
ACTION: DENIED
- (12) **ROSEANNE LOVATO, CASE NO. 04-2337**
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles
Issue: Moral turpitude, unsuitable for employment.
ACTION: DENIED
- (13) **BRENT MARQUARDT, CASE NO. 04-1840**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information, negative employment record.
ACTION: DENIED
- (14) **HECTOR NATT, CASE NO. 04-3011**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; failed to provide proof of GED completion.
ACTION: DENIED
- (15) **JOE RIVAS, CASE NO. 04-2425**
Classification: Public Safety Dispatcher II
Department: California Highway Patrol
Issue: Suitability; furnished inaccurate and omitted pertinent information, negative employment record.
ACTION: DENIED
- (16) **RUBEN SERRATO, CASE NO. 05-1167**
Classification: Correctional Officer
Department: Corrections
Issue: Appellant failed to provide information to CDC
ACTION: DENIED
- (17) **JOHN TRUMBULL, CASE NO. 04-1995**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and firearm prohibition.
ACTION: Case withdrawn by Department. The Board did not vote.

(18) STEVEN WARD, CASE NO. 04-2883

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; negative employment record.

ACTION: DENIED

(19) JODY WILLIAMS, CASE NO. 04-0808

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; failure to disclose pertinent information during the selection process.

ACTION: Case withdrawn by Department. The Board did not vote.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases would have been heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
 RULE 212 OUT OF CLASS APPEALS
 VOIDED APPOINTMENT APPEALS**

Cases would have been heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

On November 15, 2005, the Board adopted as indicated below the following decisions presented by Karen Coffee, Chief of METR Division, California State Personnel Board, in absence of Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan – Aye

- (1) KARIN CHEN, CASE NO. 04-1194**
Classification: Office Technician (Typing)
Department: Department of Transportation
Issue: The charging party requests to file charges against the charged parties for violations of various subsections of Government Code section 19572.
ACTION: DENIED
- (2) FRANCIS LABLANC, CASE NO. 04-1650**
Classification: Civilly committed offender at ASH
Department: Mental Health
Issue: The charging party requests charges be filed against the charged party for violations of subsections of Government Code section 19572.
ACTION: DENIED
- (3) EDDIE MARTINEZ, CASE NO. 04-3021**
Classification: Civilly committed offender at ASH
Department: Mental Health
Issue: The charging party requests charges be filed against the charged party for violations of various subsections of Government Code section 19572.
ACTION: DENIED

- (4) **DIANE MORONI, CASE NO. 04-2983**
Classification: Housing and Community Development Representative II
Department: Housing & Community Development
Issue: The charging party requests that charges be filed against the charged party for a violation of a subsection of Government Code, section 19572.
ACTION: DENIED
- (5) **ALINE POTTS, CASE NO. 04-2434**
Classification: Criminal Intelligence Specialist I
Department: Justice
Issue: The charging party requests that charges are filed against the charged party for violations of various subsections of Government Code, section 19572.
ACTION: DENIED
- (6) **WARREN ROSE, CASE NO. 04-3016**
Classification: Patient at Atascadero State Hospital
Department: Mental Health
Issue: The charging party requests that charges are filed against the charged party for violations of various subsections of Government Code, section 19572.
ACTION: DENIED
- (7) **FRANK SUMAHIT, CASE NO. 04-2436**
Classification: Civilly committed offender at ASH
Department: Mental Health
Issue: The charging party requests charges be filed against the charged party for violations of subsections of Government Code section 19572.
ACTION: DENIED
- (8) **ROBERT WASHBURN, CASE NO. 04-2440**
Classification: Civilly committed offender at ASH
Department: Mental Health
Issue: The charging party requests charges be filed against the charged party for violations of subsections of Government Code section 19572.
ACTION: DENIED

(9) WILLIAM WILSON, CASE NO. 04-2898

Classification: Patient at Atascadero State Hospital

Department: Mental Health

Issue: The charging party requests that charges are filed against the charged party for violations of various subsections of Government Code, section 19572.

ACTION: DENIED

PETITIONS FOR REHEARING CASES

(10) GERALD WILLIAMS, CASE NO. 04-1784P

Classification: Correctional Officer

Department: Department of Corrections

Issues: The appellant states that the State Personnel Board (SPB) denied him due process in his original hearing. The appellant is concerned that the Board's decision may prejudice the outcome of an appeal hearing to decide his right to reinstatement to a Correctional Officer position.

ACTION: GRANTED

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. HEARING – PERSONAL SERVICES CONTRACT # 05-07

Appeal of Department of General Services (DGS) from the Executive Officer's April 22, 2005 Disapproval of a Proposed Three-Year Cost-Savings Contract with American Building Maintenance janitorial Services for Custodial Services for the Franchise Tax Board. (Hearing held August 9, 2005)

NO ACTION

7. MARK SAMORA, CASE NO. 04-3041A

Appeal from dismissal. Information Technology Consultant. California State University, Los Angeles. (Oral Argument held October 3, 2005)

NO ACTION

8. HEARING – PERSONAL SERVICES CONTRACT #05-04

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) from the Executive Officer's April 1, 2005 Approval of a Contract for Legal Services between the Secretary of State's Office and Renne & Holtzman Public Law Group, LLP (Oral Argument held on October 3, 2005)

NO ACTION

9. HEARING

Proposed Revisions to Whistleblower Retaliation Complaint Regulations (Title 2, C.C.R., section 56 et. seq.) (Hearings held on September 20, 2005 and October 3, 2005)

NO ACTION

10. HEARING

Proposed Revisions to Discovery Regulations in Evidentiary Hearings Regulations (Title 2, C.C.R., section 57 et. seq.) (Hearings held on September 20, 2005 and October 3, 2005)

NO ACTION

11. PATRICK BRASS, CASE NO. 04-1952A

Appeal from dismissal. Youth Correctional Counselor. Department of the Youth Authority. (Oral Argument heard November 1, 2005)

NO ACTION

12. GARY GARFINKLE, CASE NO. 98-3128RBA

Appeal for determination of back salary, benefits and interest. Deputy Attorney General IV. Department of Justice. (Oral Argument heard November 1, 2005)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

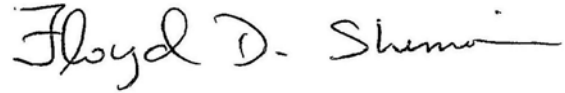
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on November 15, 2005.

VOTE: Elkins, Tom, Harrigan, Sheehan – Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

FLOYD D. SHIMOMURA
Executive Officer
California State Personnel Board